



N.C. Department of Labor

Wage and Hour Notice to Employees



Wage and Hour Act

Minimum Wage: \$7.25 per hour (effective 7/24/09).

Employers in North Carolina are required to pay the higher of the minimum wage rate established by state or federal laws. The federal minimum wage increased to \$7.25 per hour effective July 24, 2009; therefore, employers in North Carolina are required to pay their employees at least \$7.25 per hour.

An employer may pay as little as \$2.13 per hour to tipped employees so long as each employee receives enough in tips to make up the difference between the wages paid and the minimum wage. Employees must be allowed to keep all tips, except that pooling is permitted if no employee's tips are reduced more than 15 percent. The employer must keep an accurate and complete record of tips as certified by each employee monthly or for each pay period. Without these records, the employer may not be allowed the tip credit.

Certain full-time students may be paid 90 percent of the minimum wage, rounded to the lowest nickel.

Overtime

Time and one-half must be paid after 40 hours of work in any one workweek, except after 45 hours at seasonal recreational and amusement establishments. The state overtime provision does not apply to some employers and employees who are exempt.

Youth Employment

Rules for all youths under 18 years old are: Youth employment certificates (YEC) are required. To obtain a YEC, please visit our website at www.nclabor.com.

Hazardous or Detrimental Occupations: State and federal labor laws protect youth workers by making it illegal for employers to hire them in dangerous jobs. For example, non-agricultural workers under 18 years of age may not operate a forklift; operate many types of power equipment such as meat slicers, circular saws, band saws, bakery machinery or wood-working machines; work as an electrician or electrician's helper; or work from any height above 10 feet, including the use of ladders and scaffolds. For a complete list of prohibited jobs, please visit our website at www.nclabor.com.

Additional rules for 16- and 17-year-olds are: No work between 11 p.m. and 5 a.m. when there is school the next day. Exception: When the employer gets written permission from the youth's parents and principal.

Additional rules for 14- and 15-year-olds are:

Where work can be performed: Retail businesses, food service establishments, service stations and offices of other businesses. Work is not permitted in manufacturing, mining or construction, or with power-driven machinery, or on the premises of a business holding an ABC permit for the on-premises sale or consumption of alcoholic beverages; except that youths at least 14 years of age can work on the outside

grounds of the premises with written consent from a parent or guardian as long as the youth is not involved with the preparation, serving, dispensing or sale of alcoholic beverages.

Maximum hours per day: Three on school days; eight if a non-school day.

Maximum hours per week: 18 when school is in session; 40 when school is not in session.

Hours of the day: May work only between 7 a.m. and 7 p.m. (9 p.m. from June 1 through Labor Day).

Breaks: 30-minute breaks are required after any period of five consecutive hours of work.

Additional rules for youths under 14 years old are: Work is generally not permitted except when working for the youth's parents; in newspaper distribution to consumers; modeling; or acting in movie, television, radio or theater production.

These state youth employment provisions do not apply to farm, domestic or government work.

Wage Payment

Wages are due on the regular payday. If requested, final paychecks must be mailed. When the amount of wages is in dispute, the employer's payment of the undisputed portion cannot restrict the right of the employee to continue a claim for the rest of the wages.

Employees must be notified of paydays, pay rates, policies on vacation and sick leave, and of commission, bonus and other pay matters. Employers must notify employees in writing or through a posted notice maintained in a place accessible to its employees of any reduction in the rate of promised wages at least 24 hours prior to such change.

Deductions from paychecks are limited to those required by law and those agreed to in writing on or before payday. If the written authorization that the employee signs does not specify a dollar amount, the employee must receive prior to payday (1) written notice of the actual amount to be deducted, (2) written notice of their right to withdraw the authorization, and (3) be given a reasonable opportunity to withdraw the authorization. The written authorization or written notice may be given in an electronic format, provided the requirements of the Uniform Electronic Transactions Act (Chapter 66, Article 40 of the N.C. General Statutes) are met.

The withholding or diversion of wages owed for the employer's benefit may not be taken if they reduce wages below the minimum wage. No reductions may be made to overtime wages owed.

Deductions for cash or inventory shortages or for loss or damage to an employer's property may not be taken unless the employee receives seven days' advance notice. This seven-day rule does not apply to these deductions made at termination. An employer may not use fraud or duress to require employees to pay back protected amounts.

If the employer provides vacation pay plans to employees, the employer shall give vacation time off or payment in lieu of time off, as required by company policy or practice. Employees must be notified in writing or through a posted notice of any company policy or practice that results in the loss or forfeiture of vacation time or pay. Employees not so notified are not subject to such loss or forfeiture.

The wage payment provisions apply to all private-sector employers doing business in North Carolina. The wage payment provisions do not apply to any federal, state or local agency or instrumentality of government.

Complaints

The department's Wage and Hour Bureau investigates complaints and collects back wages plus interest if they are due to the employee. The state of North Carolina may bring civil or criminal actions against the employer for violations of the law. The employee may also sue the employer for back wages. The court may award attorney's fees, costs, liquidated damages and interest.

Anyone having a question about the Wage and Hour Act may write or call:

N.C. Department of Labor
Wage and Hour Bureau
1101 Mail Service Center
Raleigh, NC 27699-1101
Phone: 1-800-625-2267 or (919) 807-2796
Fax: (919) 807-2786
E-mail: ask.wageandhour@labor.nc.gov
www.nclabor.com

Employment at Will—Right-to-Work Laws

North Carolina is an employment-at-will state. The term "employment-at-will" simply means that unless there is a specific law to protect employees or there is an employment contract providing otherwise, then an employer can treat its employees as it sees fit and the employer can discharge an employee at the will of the employer for any reason or no reason at all.

North Carolina is a "right-to-work" state, which means that the right of a person to work cannot be denied or abridged because that person belongs—or does not belong—to a labor union. In addition, an employer cannot require any person, as a condition of employment or continuation of employment, to pay any dues, fees or other charges of any kind to a labor union. Also, an employer cannot enter into an agreement with a labor union whereby (1) non-union members are denied the right to work for the employer, (2) membership is made a condition of employment or continuation of employment, or (3) the labor union acquires an employment monopoly in any enterprise.

In addition, in *CWA v. Beck*, 487 U.S. 735 (1988), the U.S. Supreme Court stated that if a collective bargaining agreement between an employer and a labor union requires employees to

pay uniform periodic dues and initiation fees, employees who are not union members can object to the use of their payments for certain purposes and can only be required to pay their share of union costs relating to collective bargaining, contract administration and grievance adjustment. Thus, if you believe that you have been required to pay dues or fees used in part to support activities not directly related to the duties of collective bargaining, you may be entitled to a refund and to an appropriate reduction in future payments.

NCDOL does not have any enforcement authority of these laws, but if you have any questions, contact the Regional Office of the National Labor Relations Board (NLRB) at the following address and phone number:

NLRB—Region 11 Office
Republic Square
4035 University Parkway, Suite 200
Winston-Salem, NC 27106-3325
(336) 631-5201

Employment Discrimination

The department's Employment Discrimination Bureau (EDB) enforces the Retaliatory Employment Discrimination Act (REDA). Employees involved in the following activities are protected from retaliation or discrimination by their employer:

- Workers' Compensation Claims
- Wage and Hour Complaints
- Occupational Safety and Health Complaints
- Mine Safety and Health Complaints
- Genetic Testing
- Sickle Cell or Hemoglobin Carriers
- N.C. National Guard Service
- The Juvenile Justice System
- Victims of Domestic Violence
- Pesticide Regulation Complaints

Employers who have questions about the application of REDA, or employees who believe they have been discriminated or retaliated against, should contact the EDB information officer:

N.C. Department of Labor
Employment Discrimination Bureau
1101 Mail Service Center
Raleigh, NC 27699-1101
Phone: 1-800-625-2267 or (919) 807-2831
Fax: (919) 807-2824
E-mail: ask.edb@labor.nc.gov
www.nclabor.com

All complaints must be made within 180 days of the date of retaliation.

To find out more information about this poster and to download all of the required state and federal posters, please visit our website at: <http://www.nclabor.com/posters/posters.htm>